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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/663,660      | 09/17/2003  | Edward J. Bailey JR. | 033625-005          | 3800             |

21839 7590 06/10/2005

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| EXAMINER |
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D ADAMO, STEPHEN D

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| ART UNIT | PAPER NUMBER |
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3636

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/663,660

Applicant(s)

BAILEY, EDWARD J.

Examiner

Stephen D'Adamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6, 11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's after-final amendment, filed May 23, 2005, was considered. However, upon further consideration, new art has been applied to the claims. The finality of the rejection of the last Office action is withdrawn.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Piretti (5,524,966).

Piretti discloses a folding chair with a tilting backrest comprising a seat portion 2 and left and right stanchions attached to the seat portion on left and right sides of the seat portion. Each stanchion includes a bottom member 4, 5 having a first end adapted to be secured to a surface with rubber feet and a second end. The surface supports the seating system. Each stanchion also includes a second member 3 having a first end adapted to be secured to the second end of the bottom member at any one of a plurality of different angular relationships (see the phantom lines in Figure 1). The seat also comprises a boss 11, 25 and a fastener 33, 37. The seat portion 2 is connected to the second end of the bottom member and the first end of the second member via the boss and a fastener. The fastener 33, 37 passes through the second end of the bottom member, the first end of the second

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member and the boss. Moreover, each stanchion has a first hub 9, 18 connected to the second end of the bottom member and a second hub 31 connected to the first end of the second member. The first hub has protrusions 21, 42 and the second hub has recesses 43 adapted to mate with one of the protrusions of the first hub at different relative angular relationships between the first hub and second hub (Figures 6-11). Moreover, the bottom member and second member of the left stanchion are identical to the bottom member and second member of the second stanchion. Also, the bottom member is adapted to be secured at one of a plurality of positions between 90 degrees and 180 degrees to the second member. Specifically, Figure 1 shows two different angular positions in which the second member and bottom member have an angle between 90 degrees and 180 degrees.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Piretti (5,524,966) in view of Wanner, Jr. (931,821).

Piretti discloses a folding chair with a tilting backrest comprising a seat portion 2 and left and right stanchions attached to the seat portion on left and right sides of the seat portion. Each stanchion includes a bottom member 4, 5 having a first end adapted to be secured to a surface with rubber feet and a second end. The surface supports the seating system.

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Each stanchion also includes a second member 3 having a first end adapted to be secured to the second end of the bottom member at any one of a plurality of different angular relationships (see the phantom lines in Figure 1). The seat also comprises a boss 11, 25 and a fastener 33, 37. The seat portion 2 is connected to the second end of the bottom member and the first end of the second member via the boss and a fastener. The fastener 33, 37 passes through the second end of the bottom member, the first end of the second member and the boss. However, Piretti fails to expressly disclose at least one of the stanchions form at least one the stanchions for another seating unit adjacent the original seating unit. Yet, Wanner, Jr. teaches of opera chair comprising a seat unit e, a bottom stanchion member a and a second member d. Wanner discloses, "as in a row of chairs, each side standard serves for two chairs" (page 1, line 61-62). Furthermore, Wanner, Jr. continues, "it will be understood...that the same bolts may be used to clamp to the opposite sides of an intermediate side standard to the studs appropriated to the backs and seats of two adjoining chairs" (page 2. lines 12-17). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seating unit of Piretti with additional seating units, sharing an intermediate stanchion, as taught by Wanner, Jr., for providing a multiple seating unit that saves additional space by avoiding additional stanchions for each seat.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-6 and 11-12 have been considered but are moot in view of the new ground(s) of rejection.

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*Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gasca Burges (4,441,757), Piretti (3,756,166), Piretti et al. (3,705,744) and Hock (D418,322) all show various features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 571-272-6857. The examiner can normally be reached on Monday-Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SD  
sd  
June 8, 2005

  
Peter M. Cuomo  
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